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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,964	10/30/2003	Neelam N. Vaidya	5681-54200	8464
35690	7590	12/18/2006	EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. 700 LAVACA, SUITE 800 AUSTIN, TX 78701			WU, JUNCHUN	
		ART UNIT	PAPER NUMBER	
		2196		
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	12/18/2006	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/696,964	VAIDYA, NEELAM N.	
	Examiner	Art Unit	
	Junchun Wu	2196	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/03/2005;10/28/2005</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9-18, 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Moshir et al. (US Pub. No. 20020100036, hereafter Moshir).
3. For claims 1 and 12, Moshir teaches a method or system for patching applications, comprising: deploying a patch package on a first computer running a first type of operating system, wherein the patch package comprises a patching mechanism and a first set of one or more new code components [0022 lines 1-4; 0026 lines 1-5], and wherein the patching mechanism is also executable on a second computer running a second type of operating system [0047; 0009 lines 1-3]; and executing the patching mechanism on the first computer, wherein executing the patching mechanism comprises replacing a first set of one or more old code components in a first application with the first set of one or more new code components [0053 lines 4-7; 0058 lines 4-9].

4. For claims 2 and 13, Moshir teaches: deploying the patch package on the second computer, wherein the patch package further comprises a second set of one or more new code

components [0026]; and executing the patching mechanism on the second computer, wherein executing the patching mechanism comprises replacing a second set one or more old code components in a second application with the second set of one or more new code components [0053 lines 4-7; 0058 lines 4-9], wherein the second application is functionally equivalent to the first application [0010].

5. For claims 3 and 14, Moshir teaches the method of claim 1 wherein the patching mechanism is written in Java [0050].
6. For claims 4 and 15, Moshir teaches the patching mechanism is a script written in a cross-platform scripting language [0050; Perl is a cross-platform scripting language].
7. For claims 5 and 16, Moshir teaches storing the first set of one or more old code components in a separate location before being replaced with the first set of one or more new code components [0065 lines 8-12].
8. For claims 6 and 17, Moshir teaches restoring the first set of one or more old code components to the first application [0065 lines 1-8].
9. For claims 7 and 18, Moshir teaches wherein the patch package further comprises a patch information file, wherein the patch information file comprises information on the first set of one

or more new code components and information regarding which application the patch package is applicable to patch [0022 lines 1-4; 0079 lines 1-4; 0084 lines 4-8].

10. For claims 9 and 20, Moshir teaches storing information on one or more other patch packages that have been previously applied to the first application in a package information file [0128 lines 8-16].

11. For claims 10 and 21, Moshir teaches detecting patch conflicts by comparing the patch information file to the package information file [0080 lines 1-8].

12. For claims 1~~1~~⁴ and 22, Moshir teaches the user interface for the patching mechanism is the same on different platforms [0140].

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 8 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshir, and in view of Taylor (US Patent No. 6,161,218).

15. For claims 8 and 19, Moshir teaches the patch information file further comprises information on what bugs the patch package is operable to fix [0092 lines 1-5], but Moshir fails to teach information regarding which other patch packages the patch package is incompatible with. However, Taylor teaches information regarding which other patch packages the patch package is incompatible with [col.7 lines 56-57]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moshir by information regarding which other patch packages the patch package is incompatible with as taught by Taylor in order to scan all the patches in target package's information list and to verify that it is ok to install the patch [Taylor col.7 lines 20-22 & lines 39-41].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Junchun Wu whose telephone number is 571-270-1250. The examiner can normally be reached on Flexible.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nabil El-hady can be reached on 571-272-3963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Junchun Wu

N. El-Hady

NABIL M. EL-HADY
SUPERVISORY PATENT EXAMINER